

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TONY V. STARLING, SR.,

Plaintiff,

-v-

5:19-CV-1458
(DNH/TWD)

SYRACUSE POLICE DEPARTMENT;
ONONDAGA COUNTY JUSTICE CENTER;
ONONDAGA COUNTY SHERIFF'S OFFICE;
ONONDAGA COUNTY, County Executive;
SHERIFF; UNDERSHERIFF; CHIEF OF
CUSTODY; SYRACUSE POLICE OFFICERS;
SYRACUSE POLICE CHIEF; CITY OF
SYRACUSE, Office of Mayor; P. MOORE,
Syracuse Police Officer; C. MAHON, Syracuse
Police Officer; and K. KEMPLE, Syracuse
Police Officer, also known as K. KEMBLE, also
known as K. KIMPLE, also known as K.
KIMBLE,

Defendants.

APPEARANCES:

TONY V. STARLING, SR.
Plaintiff pro se
Onondaga County Justice Center
555 South State Street
Syracuse, NY 13202

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Tony V. Starling, Sr. brought this civil rights action pursuant to 42
U.S.C. § 1983. On December 20, 2019, the Honorable Thérèse Wiley Dancks, United

States Magistrate Judge, advised by Report-Recommendation that some of plaintiff's claims be dismissed with prejudice and some without prejudice, and that the remaining claims be permitted to proceed. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Plaintiff's Complaint is DISMISSED WITH PREJUDICE as against defendants Syracuse Police Department, Onondaga County Sheriff's Office, and Onondaga County Justice Center;

2. Plaintiff's Complaint is DISMISSED WITHOUT PREJUDICE as against defendants Onondaga County, City of Syracuse, Sheriff, Undersheriff, Chief of Custody, Syracuse Police Officers, and Syracuse Police Chief;

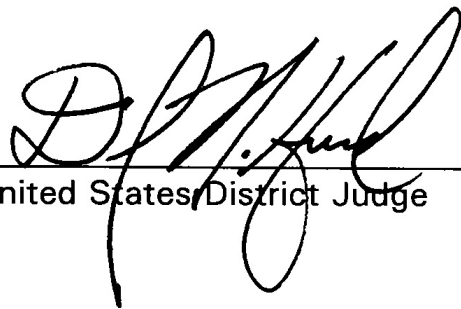
3. Plaintiff's Fourth Amendment excessive force and Fourteenth Amendment deliberate indifference claims against defendants Syracuse Police Officers P. Moore, C. Mahon, and K. Kemple survive sua sponte review and shall proceed;

4. The Clerk is directed to: (1) provide the superintendent of the facility that plaintiff designated as his current location with a copy of plaintiff's inmate authorization form (ECF No. 5) and notify that official that this action has been filed and that plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 U.S.C. § 1915 through periodic withdrawals from his inmate accounts; (2) provide a copy of plaintiff's authorization form (ECF No. 5) to the Financial Deputy of the Clerk's Office; and (3) issue a summons and

forward it, along with a copy of the Complaint, to the United States Marshal for service upon defendants Syracuse Police Officers P. Moore, C. Mahon and K. Kemple; and

5. Defendants Syracuse Police Officers P. Moore, C. Mahon and K. Kemple answer or otherwise move against plaintiff's Complaint as provided for in the Federal Rules of Civil Procedure subsequent to service of process.

IT IS SO ORDERED.



United States District Judge

Dated: March 9, 2020
Utica, New York.